

Course outline  
**Trade and investment in times of disruption**

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### Description

This course aims at addressing the two main disruptive movements in international trade and investment law. First, we consider the critical proposals for review of the trade and investment liberal order. This movement is characterized by new topics to and forms for the regulation of the global trade and investment flows. The second movement of disruption is the most recent trend of protectionist measures amidst COVID-19, both to trade and investment flows. The purpose is to explore the clash of those two disruptive movements to the global economy.

### Teaching method

The course will combine lectures and case analysis. The time devoted to lectures will be kept to a minimum, but will provide the base for case analysis. For the case analysis portion, students will read redacted versions of cases before classes and will discuss the cases in class.

DAY	TOPIC	READING AND CLASS ACTIVITIES
1	<b>Investment and the movement of reforms of the liberal system</b>	1) Check-in: investment and law in the 21 <sup>st</sup> century 2) Lecture: assumptions and proposals <ol style="list-style-type: none"> <li>a. UNCTAD reform agenda and the facilitation agenda</li> <li>b. UNCITRAL and the proposal for an investment court</li> <li>c. Unilateral proposals of reforms for bilateral agreements</li> <li>d. ISDS moratorium during the COVID-19 pandemic.</li> </ol> <i>Reading:</i> <ul style="list-style-type: none"> <li>• Morosini, F.; Sanchez-Badin, M. <i>Reconceptualizing international investment law: Introduction (part)</i>. Cambridge, CUP, 2018, pp. 1-26.</li> </ul> 3) Simulating negotiations at the WTO: Brazil, China, India, and Russia (based on edited documents). 4) Check-out
2	<b>Investment and the protectionist reactions to the liberal system</b>	1) Brainstorming: discussing the investment regulation of the 5G technology and infrastructure; the pandemic, FDI restrictions and state interventionism. 2) Lecture: assumptions and proposals <ol style="list-style-type: none"> <li>a. National Critical Infrastructure</li> </ol>

		<p>b. Screening processes</p> <p><i>Reading:</i></p> <ul style="list-style-type: none"> <li>• Knight, L.; Voon, T. The Evolution of National Security at the Interface between Domestic and International Investment Law and Policy: The Role of China, <i>Journal of World Investment &amp; Trade</i>, 2020 (50p.).</li> <li>• UNCTAD, Investment Policy Monitor: Special Issue - Investment Policy Responses to the COVID-19 Pandemic (16p.)</li> </ul> <p>3) Discussion and fishbowl session about Australia, US and Canada national decisions and regulations on national security (based on edited documents).</p> <p>4) Check-out</p>
3	<p><b>Trade and Reaction: the protectionist reactions and threat to multilateralism</b></p>	<p>1) Lecture</p> <ol style="list-style-type: none"> <li>a. Threats to multilateral trade</li> <li>b. National Security exception</li> <li>c. The dying WTO's Appellate Body</li> </ol> <p><i>Reading:</i></p> <ul style="list-style-type: none"> <li>• Daria Boklan, Amrita Bahri, 'The First WTO's Ruling on National Security Exception: Balancing Interests or Opening Pandora's Box?' <i>World Trade Review</i> (January 2020)</li> <li>• Amrita Bahri, 'Appellate Body Held Hostage: Is Judicial Activism at Fair Trial', Vol. 53 (2) <i>Journal of World Trade</i> 2019</li> <li>• Amrita Bahri and Daria Boklan, 'The Collapsing Multilateral Trading System: Is "Consensus" the Real Elephant in the Room?' (forthcoming, 2020)</li> </ul> <p><i>Case: Russia-Traffic in Transit</i></p>
4	<p><b>Rethinking International Trade: Gender Dimension</b></p>	<p>1) Lecture</p> <ol style="list-style-type: none"> <li>a. Gender and Trade</li> <li>b. Free trade agreements and gender equality</li> <li>c. COVID-19, women and international trade</li> </ol> <p><i>Reading:</i></p> <ul style="list-style-type: none"> <li>• Amrita Bahri, 'Measuring the Gender-Responsiveness of Free Trade Agreements: Using a Self-Evaluation Maturity Framework', Vol. 14 (11) <i>Global Trade &amp; Customs Journal</i> 2019</li> <li>• Amrita Bahri, 'Women at the Frontline of COVID-19: Can International Trade Law Help?' (forthcoming, 2020)</li> </ul>
5	<p><b>Exam</b></p>	<p>Take away exam</p>

## Bibliography

Bahri, A., 'Women at the Frontline of COVID-19: Can International Trade Law Help?' (forthcoming, 2020)

Bahri, A. 'Measuring the Gender-Responsiveness of Free Trade Agreements: Using a Self-Evaluation Maturity Framework', *Global Trade & Customs Journal*, Vol. 14 (11) 2019.

Bahri, A. 'Appellate Body Held Hostage: Is Judicial Activism at Fair Trial', *Journal of World Trade* Vol. 53 (2) 2019.

Boklan, D.; Bahri, A. 'The First WTO's Ruling on National Security Exception: Balancing Interests or Opening Pandora's Box?' *World Trade Review* (January 2020) Bahri and Boklan, 'The Collapsing Multilateral Trading System: Is "Consensus" the Real Elephant in the Room?' (forthcoming, 2020)

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UNCTAD. *Investment Policy Hub database*.

UNCTAD, *Investment Policy Monitor: Special Issue - Investment Policy Responses to the COVID-19 Pandemic* (16p.)

UNCTAD. *UNCTAD's Reform Package for the International Investment Regime* (2018 edition)

UNCTAD. *World Investment Report 2016 - investor nationality: policy challenges*

## About the professors

**Michelle R. Sanchez-Badin.** Full-time professor, in the associate position, at Getulio Vargas Foundation São Paulo School of Law, Brazil. PhD and Bachelor's Degree from the University of São Paulo, Brazil. Visiting researcher at the Graduate Institute of International Studies and Development (GIISD), in Geneva, Switzerland (2001), at the Hauser Global Law School Program, New York University (2007-2008), at the School of Law of the University of California, Irvine (2015), and at the School of Law of the University of Sydney (2017). She is one of the founding members of the Society of International Economic Law (SIEL) and current co-director, of the RED-DEI – the International Economic Law Network in Latin America, and of the International Law

Association (Brazilian chapter). Her research and teaching are in the field of International Economic Law, Global Governance legal theories, Brazilian foreign policy and its regulatory framework, and Teaching and Research Methods in International Law.

**Dr. Amrita Bahri**, who is currently an Assistant Professor of Law at ITAM University, is an international trade law scholar with the experience of practice, teaching and research. She is the Co-Chairholder of WTO Chair Programme and the Deputy Director for the Centre of International Economic Law at ITAM. She has a PhD in International Trade Law from University of Birmingham and an LLM in International Business Law from London School of Economics. Amrita has published on the issues of international trade law, dispute settlement and capacity building in developing countries. Her recent articles feature in the prestigious journals such as the Journal of World Trade and Trade, Law & Development. Her other works, in the form of a book and book chapters, are published by leading publishers such as Cambridge University Press and Edward Elgar. Amrita is the Founding Member of the South Asian International Economic Law Network (SAIELN) and the Member of Society of International Economic Law (SIEL).